



ANNO DECIMO QUARTO

# GEORGII V REGIS.

A.D. 1923.

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No. 1592.

An Act to provide for the Construction of a Railway from Kimba Siding to a point in the Hundred of Buckleboo, and for other purposes.

[Assented to, December 6th, 1923.]

**B**E it Enacted by the Governor of the State of South Australia, with the advice and consent of the Parliament thereof, as follows :

1. This Act may be cited as the "Kimba to Buckleboo Railway Act, 1923." Short Title.

2. The Acts mentioned in the First Schedule, so far as the same are severally applicable to the purposes of this Act and not inconsistent with this Act, but with the exceptions stated in the Schedule, are incorporated with this Act. Incorporation with other Acts.

3. The South Australian Railways Commissioner (hereinafter referred to as "the Commissioner") may— Power to construct railway.

- i. construct a railway (hereinafter referred to as "the said railway") from Kimba Siding on the railway authorised by the Hundred of Solomon and Decrès Bay Railways Act, 1912, to a point in the Hundred of Buckleboo, as the said railway is delineated in the plan deposited in the office of the Surveyor-General, at Adelaide, signed "F. W. Stephen," and dated the eleventh day of September, nineteen hundred and twenty-three, or as the said railway is delineated in any plans so deposited after the passing of the Act pursuant to any law for the time being in force as to the deposit of such plans ;

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II. construct all proper works and conveniences connected with, or for the purposes of the said railway, or any part or parts thereof, or of the said railway and any other railway or railways; and

III. maintain the said railway and all such works and conveniences :

Provided that in case the Houses of Parliament are not sitting when any plans and books of reference as to the said railway are deposited in the office of the Surveyor-General under section 9 of the Railway Clauses Act, 1876, the Commissioner may make deviations under the said section before causing copies of such plans and books of reference to be laid before Parliament; but such copies shall be laid before both Houses of Parliament within fourteen days after the next sittings of such Houses respectively.

No. 23 of 1876.

How work to be carried out.

4. (1) The Commissioner—

(a) shall call for tenders for the construction of the said railway to be sent in within such time, to such place, and to be upon and subject to such terms, conditions, and provisions as he deems advisable, and may accept or reject any tender; and he may construct the railway himself if no tender for the construction thereof is accepted :

(b) if tenders are not called for, or if no tender is accepted under paragraph (a) hereof, may himself construct the said railway, and, if he thinks proper, may for such purpose contract by petty contracts on or piecemeal rates for the construction of any part or parts thereof.

Railway may be constructed in sections.

(2) Notwithstanding anything in this Act, the Commissioner may construct the said railway in sections, as he may find convenient, instead of as one work, and in that case subsection (1) hereof shall apply in respect of each such section.

Gauge and rails.

5. The gauge of the said railway shall be three feet six inches, and the rails to be used in the construction thereof shall be of iron or steel, and of the weight of not less than forty pounds to the yard.

Fares, tolls, and charges.

6. The Commissioner may demand for the use of the said railway and in respect thereof, and for the carriage of goods, stock, minerals, mails, parcels, and passengers thereon, and for the loading and unloading of goods, minerals, mails, and stock, such fares, tolls, charges, and rates as are from time to time fixed by the Commissioner, in manner prescribed by any Act or Acts under which the Commissioner may fix fares, tolls, charges, and rates in respect of the railways under his control.

Appropriation of fares, tolls, &c.

7. All fares, tolls, rents, dues, charges, rates, and sums of money which are received under the authority of this Act shall be paid, in such manner as is prescribed by the Governor, to the Treasurer of the State for the public purposes of the said State.

8. When

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8. When any land is purchased or taken by the Commissioner for the purposes of this Act, or the Commissioner exercises, with respect to any land and for such purposes, the powers conferred by any of the Acts incorporated with this Act, or any land is alleged to be injuriously affected by the constructing of the said railway or any works or conveniences authorised by this Act, if the amount of compensation to be paid to any owner of such land is not determined by agreement in writing, signed by or on behalf of such owner and the Commissioner, within twenty-one days after the Commissioner has given notice to such owner, as required by section 18 of the Lands Clauses Consolidation Act, that he requires to purchase or take such land, or that he desires to have the compensation for the exercise of the said powers or for the injurious affection fixed, as the case may be, the amount of compensation shall be determined by arbitration in the following manner :—

Method of determining purchase-money and compensation for land taken.

No. 6 of 1847.

- I. The Commissioner may give notice in writing to such owner of his intention to have the compensation settled by arbitration, and may, by the same or a subsequent notice in writing to such owner, nominate and appoint an arbitrator to act in the reference on behalf of the Commissioner :
 

Notice to arbitrate and appointment of arbitrator by Commissioner.
- II. Such owner may, within twenty-one days after the giving of such notice appointing an arbitrator, give notice in writing to the Commissioner agreeing that such arbitrator shall be sole arbitrator, or nominating and appointing another arbitrator to act in the reference on behalf of such owner :
 

Appointment of arbitrator by owner.
- III. Each such notice nominating and appointing an arbitrator or agreeing to the appointment of a sole arbitrator, shall be deemed a submission to arbitration on the part of the party by whom the same is given ; and after the giving of any such notice neither party shall have power to revoke the appointment thereby made or such submission without the consent in writing of the other party, nor shall the death of either party operate as a revocation :
 

Notice of appointment deemed a submission.
- IV. Unless such owner, within twenty-one days after the giving by the Commissioner as aforesaid of notice nominating and appointing an arbitrator, gives notice to the Commissioner as provided by paragraph II. hereof, agreeing that such arbitrator shall be sole arbitrator or nominating and appointing another arbitrator, the Commissioner may appoint the arbitrator nominated and appointed by him to act on behalf of both parties ; and such arbitrator shall proceed to hear and determine the matter and shall give his award determining the price and compensation (if any) to be paid :
 

In default of appointment by owner, arbitrator appointed by Commissioner to act alone.
- v. All the provisions of sections 26 to 35 inclusive of the Lands Clauses Consolidation Act shall, *mutatis mutandis*, apply with respect to the arbitration and the determination of the compensation :
 

Provisions as to umpire, vacancies, etc.

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Informality not to  
invalidate.

VI. No notice, appointment, or award made under this section shall be set aside or be invalid for irregularity or error in matter of form :

Award to be final.

VII. Every award under this section of arbitrators, or of a single arbitrator (in a case where it is agreed, as mentioned in paragraph II. hereof, that an arbitrator shall be the sole arbitrator, or where a single arbitrator is empowered by this section to give an award), or of an umpire, shall be final: Provided always that where an arbitrator or umpire has misconducted himself the Supreme Court or a Judge thereof may remove him, and that where an arbitrator has misconducted himself, or an arbitration or award has been improperly procured, the said Court or a Judge thereof may set the award aside :

Effect of submission  
and award.

VIII. A submission to arbitration under this section shall have the same effect as if it had been made an order of the Supreme Court ; and an award under this section may, by leave of the Supreme Court or a Judge thereof, be enforced in the same manner as a judgment or order of the said Court to the same effect :

Meaning of  
"owner" and  
"land."

IX. In this section—

(a) the word "owner" includes, with respect to any land, any person having any estate or interest (legal or equitable) in the land, or any easement, right, power, or privilege in, under, over, affecting, or in connection with the land, or by the Lands Clauses Consolidation Act enabled to sell and convey, transfer, release, assign, or otherwise assure such estate, interest, easement, right, power, or privilege ; and

(b) the word "land" includes any estate or interest (legal or equitable) in land, and any easement, right, or privilege in, under, over, affecting, or in connection with land.

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Revenue from  
Crown lands to be  
paid into Railway  
Capital Account.

9. When any Crown lands situated as mentioned in the Second Schedule are, after the passing of this Act, leased, sold, or contracted to be sold by or on behalf of the Crown, all rents, purchase-money, and interest received in respect of such lands prior to the expiration of the tenth year after the date upon which the said railway is opened for traffic shall be credited to the Railway Capital Account in respect of the cost of the said railway: Provided that at any given time the total amount so credited to the Railway Capital Account shall not be in excess of the total amount of the loss incurred in connection with the working of the said railway from the time when the said railway was opened for traffic until such given time.

In the name and on behalf of His Majesty, I hereby assent to this Bill.

TOM BRIDGES, Governor.

SCHEDULES.

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## SCHEDULES.

## THE FIRST SCHEDULE.

Ordinance No. 6 of 1847.—The Lands Clauses Consolidation Act, except sections 9, 12 to 17 inclusive, 21 to 25 inclusive, 38 to 62 inclusive, 64 to 68 inclusive, 110, 114 to 120 inclusive, 136, and 137. Section 2.

Act No. 26 of 1855-6, being an Act to amend the Lands Clauses Consolidation Act, except sections 1, 4, and 6.

Act No. 202 of 1881.—The Lands Clauses Consolidation Amendment Act, 1881, except sections 5 to 11 inclusive.

Act No. 1035 of 1911.—The Lands Clauses Consolidation Further Amendment Act, 1911.

Act No. 1163 of 1914.—The Lands Clauses Consolidation Further Amendment Act, 1914.

Act No. 1326 of 1918.—Lands Clauses Consolidation Further Amendment Act, 1918.

Ordinance No. 7 of 1847.—The Railways Clauses Consolidation Act.

Act No. 6 of 1858, being an Act to Amend the Railways Clauses Consolidation Act.

Act No. 32 of 1876.—The Railway Clauses Act, 1876.

Act No. 1392 of 1919.—Railway Clauses Act Amendment Act, 1919.

Act No. 414 of 1887.—The South Australian Railways Commissioners Act, 1887.

Act No. 512 of 1891.—The South Australian Railways Commissioners Act Amendment Act, 1891.

Act No. 612 of 1894.—The South Australian Railways Commissioners Act Amendment Act, 1894.

Act No. 912 of 1906.—The South Australian Railways Commissioners Further Amendment Act, 1906.

Act No. 988 of 1909.—The South Australian Railways Commissioners Act Amendment Act, 1909.

Act No. 1144 of 1913.—The South Australian Railways Commissioners Act Amendment Act, 1913.

Act No. 1332 of 1918.—South Australian Railways Commissioners Act Further Amendment Act, 1918.

Act No. 1486 of 1921.—South Australian Railways Commissioners Act Further Amendment Act, 1921.

## THE SECOND SCHEDULE.

All the Crown lands situated within ten miles of either side of the railway authorised to be constructed by this Act and all the Crown lands situated within ten miles of the northern terminus of the said railway, excluding, in either case, any Crown lands the purchase moneys whereof are required by the Hundred of Solomon and Decr's Bay Railways Act, 1912, to be credited to the Loan Fund mentioned in that Act.